

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of the License to Conduct Gambling Activities of:)	NO. CR 2009-00887
)	
)	
David Penn, Jr.,)	NOTICE OF ADMINISTRATIVE
Kennewick, Washington,)	CHARGES AND OPPORTUNITY
)	FOR AN ADJUDICATIVE
Licensee.)	PROCEEDING
)	

I.

The Washington State Gambling Commission issued David Penn, Jr. the following license:
Number 68-26622, Authorizing Card Room Employee currently at Classic Island Casino in
Kennewick.

The license expires on June 10, 2010, and was issued subject to the licensee's compliance with state
gambling laws and rules.

II.

Rick Day, Director of the Washington State Gambling Commission, charges the licensee with the
following violations of the Washington State Gambling Act, 9.46 RCW, and WAC Title 230:

- 1) In June 2008, the licensee submitted a new application for a Card Room Employee (CRE) license
and was issued a CRE license. On this application, the licensee failed to disclose his criminal history,
including but not limited to, a 1999 Assault in the Fourth Degree, Domestic Violence conviction.
- 2) In December 2008, while licensed as a CRE, the licensee was arrested for, and then convicted of,
Assault in the Fourth Degree, Domestic Violence. The licensee was placed on two years of probation
for this conviction.
- 3) In June 2009, the licensee submitted a renewal application for a CRE license. On this application,
the licensee failed to disclose his criminal history, including his December 2008 Assault conviction.
- 4) The licensee failed to report to Commission staff his December 2008 Assault in the Fourth
Degree, Domestic Violence arrest and conviction within 30 days in violation of WAC 230-06-085
and RCW 9.46.170. As a result, he obtained a license by fraud, misrepresentation, and concealment.
- 5) The licensee's Assault conviction and his failure to disclose his criminal history on his CRE
applications establishes that the licensee poses a threat to the effective regulation of gaming.

6) The licensee has failed to establish by clear and convincing evidence the necessary qualifications for certification under RCW 9.46.153(1). Therefore, grounds exist to revoke David Penn's license under RCW 9.46.075(1), (3), (4), (7), and (8), and WAC 230-03-085(1), (2), (5), (7), and (8).

RCW 9.46.075 Denying, suspending, or revoking an application, license or permit

The Commission may deny an application, or suspend or revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein the applicant or licensee, or any person with any interest therein:

(The following subsections apply)

(1) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the Commission pursuant thereto, or when a violation of any provision of chapter 9.46 RCW, or any Commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control;

(3) Has obtained a permit by fraud, misrepresentation, concealment, or through inadvertence or mistake;

(4) Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to, forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level, or filing false reports therewith, or of any similar offense or offenses, or of bribing or otherwise unlawfully influencing a public official or employee of any state or the United States, or of any crime, whether a felony or misdemeanor involving any gambling activity or physical harm to individuals or involving moral turpitude;

(7) Makes a misrepresentation of, or fails to disclose, a material fact to the Commission;

(8) Fails to prove, by clear and convincing evidence, that he is qualified in accordance with the provisions of this chapter.

RCW 9.46.170 False or misleading entries or statements, refusal to produce records.

Whoever, in any application for a license or in any book or record required to be maintained by the Commission or in any report required to be submitted to the Commission, shall make any false or misleading statement, or make any false or misleading entry or willfully fail to maintain or make any entry required to be maintained or made, or who willfully refuses to produce for inspection by the commission, or its designee, any book, record, or document required to be maintained or made by federal or state law, shall be guilty of a gross misdemeanor subject to the penalty set forth in RCW 9A.20.021.

WAC 230-03-085 Denying, suspending, or revoking an application, license or permit

We may deny, suspend, or revoke any application, license or permit, when the applicant, licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization:

(The following subsections apply)

(1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075;

(2) Has been convicted of, or forfeited bond on a charge of, or pleaded guilty to a misdemeanor or felony crime involving physical harm to individuals. "Physical harm to individuals" includes any

form of criminal assault, any crime involving a threat of physical harm against another person, or any crime involving an intention to inflict physical harm on another person;

(5) Is serving a period of probation or community supervision imposed as a sentence for any juvenile, misdemeanor, or felony criminal offense, whether or not the offense is covered under RCW 9.46.075(4);

(7) Fails to provide us with any information required under Commission rules within the time required, or, if the rule establishes no time limit, within thirty days after receiving a written request from us;

(8) Poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by:

(a) Prior activities; or

(b) Criminal record; or

(c) Reputation; or

(d) Habits; or

(e) Associations.

RCW 9.46.153 Applicants and licensees-Responsibilities and duties

(The following subsection applies)

(1) It shall be the affirmative responsibility of each applicant and licensee to establish by clear and convincing evidence the necessary qualifications for licensure of each person required to be qualified under this chapter, as well as the qualifications of the facility in which the licensed activity will be conducted.

WAC 230-06-085 Report criminal actions filed.

(The following subsections apply)

(1) Licensees must report to us in writing within thirty days all criminal actions filed against the licensee, any manager of the licensed gambling activity, the business organization, or any person holding a substantial interest in the business organization.

(2) We must receive a copy of the final written decision or settlement within thirty days after the case is resolved.

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Jurisdiction of this proceeding is based on 9.46 RCW, Gambling, chapter 34.05 RCW, the Administrative Procedure Act, and WAC Title 230.

In order to have a hearing or discuss settlement options, the enclosed request for hearing must be completed and returned to the Gambling Commission **within 23 days from the date of the mailing of this notice.**

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)


Rick Day, being duly sworn on oath, says: That he has read this Notice of Administrative Charges and Opportunity for An Adjudicative Proceeding for David Penn, Jr., knows the contents of it, believes it to be true, that he is the Director of the Washington State Gambling Commission, and in that capacity has executed said Notice.

STATE OF WASHINGTON)
) ss
COUNTY OF THURSTON)

I hereby certify that I have this day served a copy of the document upon all parties of record in the proceeding by mailing a copy thereof, properly addressed with postage prepaid, by regular and certified mail to each party to the proceeding or his or her attorney or authorized agent.

Dated at Olympia, Washington this 15th day of July, 2009

**Communications and Legal Department
Washington State Gambling Commission**



RICK DAY, DIRECTOR

SUBSCRIBED AND SWORN TO before me
this 15 day of July, 2009.

Michelle M. Pader
NOTARY PUBLIC in and for the State of

Washington residing at Lacey.

My commission expires on June 16, 2013

